

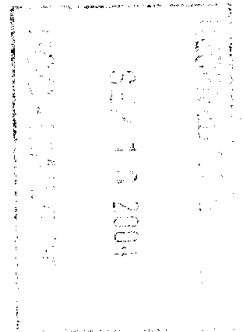


Federal Communications Commission
Washington, D.C. 20554

September 9, 2004

Charles Crawford
4553 Bordeaux Ave.
Dallas, Texas 75205

DOCKET FILE COPY ORIGINAL



Dear Mr. Crawford:

This concerns your petition for rulemaking in which you request that the Commission amend Section 73.202(b) of its rules, FM Table of Allotments, to allot Channel 256A to Moody, Texas.

An initial review of your petition shows that it is unacceptable for consideration at this time. The foregoing petition does not comply with Section 73.207(a) of the Commission's rules because the proposed transmitter site is short spaced by 52 kilometers to the licensed facilities for Station KHHL(FM) ("KHHL"), Channel 255C1, Leander, Texas. Although a construction permit has been issued to allow Station KHHL to move to Channel 255C2 at a location that would be fully spaced, no license has been issued for the facilities proposed. In regard to the downgrade at Station KHHL, any rulemaking proposal must protect the authorized Class C1 facilities until the Class C2 facilities are licensed. *See Revision of Section 73.3573(a)(1) of the Commission's Rules Concerning the Lower Classification of an FM Allotment*, 4 FCC Rcd 2413 (1989). Thus your proposal is contingent on the grant of the license for the facilities specified in the construction permit for Station KHHL, and we do not accept such contingent petitions for rulemaking. *See Cut and Shoot, Texas*, 11 FCC Rcd 16383.

Therefore, we are returning your petition for rulemaking.

Sincerely,

John A. Karousos
Assistant Chief, Audio Division
Media Bureau